


TORONTO LIFE MAGAZINE - NOVEMBER 2009
ARTICLE BY CAROLYN MORRIS - THE ILLEGALS



Non-status immigrants move from job to job—as banquet hall servers, office cleaners and construction workers—usually getting paid cash under the table.



Alejandra and Gerardo fled death threats in Mexico City and landed in Toronto. They found work, bought a car and sent their kids to school here. Eight years later, the government ordered them to leave. Instead, they went into hiding and joined the ranks of the 100,000 non-status workers who do the jobs that no one else wants to do

The Illegals

BY CAROLYN MORRIS | ILLUSTRATIONS BY LINDSAY PAGE

ALEJANDRA AND GERARDO NEVER THOUGHT THEY would leave Mexico City behind forever. In the late 1990s, she worked as the director's assistant at an affiliate of Pittsburgh Paints, and he had a position in the credit department at a national newspaper, travelling across Mexico investigating outstanding advertising accounts. They made enough money to be comfortable and had a close-knit extended family and three young kids, Alberto, Pablo and Gloria.

Then, in the spring of 2000, Gerardo and his employers began to receive anonymous death threats. Gerardo didn't know why, but guessed that he must have been exposed to something incriminating during one of his meetings with a rich and powerful advertiser. The threats against his life escalated, until one day his boss called to say he shouldn't come in to work—he should go on an extended holiday.

At the time, Canada didn't require Mexicans to have visas to enter the country, so the family decided to fly to Toronto until things cooled down. A couple weeks into their trip, Gerardo phoned his boss at the newspaper, who said people had

come to the office looking for him. Gerardo and Alejandra decided returning any time soon would be too risky, even though Alejandra's father was seriously ill. After three months in Toronto, they filed a refugee claim with the help of an immigrant centre near Oakwood Avenue and St. Clair.

Soon after making their claim, Alejandra and Gerardo found a bachelor apartment for the five of them near Kensington Market. While waiting for the decision on their case, they had access to federal health insurance, work permits, temporary social insurance numbers, career counselling, public schools, provincially subsidized language training and social services. Both were eager to work again, and took English classes. They started doing odd jobs, and within a year they were off welfare. Alejandra was making minimum wage cleaning hotel rooms, and Gerardo earned \$12 an hour removing asbestos and performing other tasks for a demolition company. The jobs weren't ideal, but they felt like decent stepping stones.

As their income increased, they were able to upgrade to a one-bedroom unit in the same building. Over the next few years, they found progres-



sively higher paying jobs—Alejandra worked her way up from housekeeping to serving at banquet halls and cooking lunch at an elementary school. They moved into a larger apartment in midtown Toronto, and after taking a child care course through a settlement office, Alejandra opened a licensed home daycare. She cared for five children, which brought in \$3,000 a month.

Gerardo graduated from tearing buildings down to erecting them. His boss owned a small residential construction company and taught him the trade. Though he sometimes longed for a desk job, he was happy to see his salary climb gradually from \$12 to \$25 an hour. "I learned everything from building foundations to painting," Gerardo tells me. When I ask if he knew any of that in Mexico, he shakes his head and he and his wife laugh.

"I didn't even know how to hold a hammer," he says.

Alejandra points at the calluses and scars on his hands and declares, "They used to look like a lady's hands." His left middle finger bends forward awkwardly—the result of a hammer blow.

He often spent winter months out of work and collecting employment insurance, but they never went back on welfare. They bought a 61-inch TV, a stereo, a dining room set and a used minivan they paid off in instalments.

While the family's status in Canada was still in limbo, they were comfortable in their new country. Four years after moving, the kids spoke better English than Spanish. They fit in at school. Gloria begged her mother—unsuccessfully—for a dog just like the Yorkshire terrier owned by a classmate. Alberto was obsessed with cars; with his dad's help, he built up a collection of over 100 die-cast model cars. Alberto and Pablo joined air cadets and played football in the summer.

To the kids, Toronto was home and Mexico was the faraway place where their aunts and uncles lived. They didn't expect to be told they didn't belong.

"ALEJANDRA" AND "GERARDO" ARE NOT THEIR REAL names. They agreed to tell me their story, but only on the condition of anonymity. They were among 1,317 Mexicans to file refugee claims in 2000. Since then, the number of Mexican claimants has soared, with 8,103 filing in 2008. At the same time, the acceptance rate for Mexican refugees has dropped from 26 to 11 per cent.

In 2004, the family was finally granted its refugee hearing. Alejandra and Gerardo would have to convince the adjudicators at the Immigration and Refugee Board that their lives would be in danger if they returned home. Their four-year wait culminated in a single meeting by videoconference. With the help of a translator, Gerardo answered questions the adjudicators in Vancouver had about his job in Mexico and the threats he had received. Because he had lost contact with his employers (he suspected his boss was also in hiding), he didn't have anyone to corroborate his story. The decision came in a letter a few weeks after the hearing, and it was devastating: Canada didn't consider them refugees.

Alejandra and Gerardo's lawyer asked for a judicial review of their case, where the Federal Court examines the decision to make sure no legal errors were made. The review took place a year later and confirmed the adjudicators' ruling.

Alejandra and Gerardo were willing to do anything to avoid uprooting their family once more. They had been gaining momentum, despite the odds against them. They were happy with their jobs and had made their last payment on the van. At 16, Alberto landed his first job, working in the sporting goods department at Canadian Tire. He had a girlfriend. He was saving up to buy a car for himself and talked about becoming a lawyer; seeing all the money his parents were spending on legal help, he figured it would be a good career choice.

By April 2008, eight years after they had arrived in Canada, the family was running out of time and options. They were told they'd be deported within 21 days. They had to hand over their social insurance cards, work permits and driver's licences immediately. Alejandra pleaded with immigration officials to let her kids finish the school year, and they agreed, provided she buy five tickets for a flight to Mexico that departed less than a week after the end of classes. The next day, the family spent \$2,700 on Air Canada tickets and handed them over to immigration officials.

But they didn't give up. They consulted another lawyer, who suggested they make a claim on humanitarian and compassionate grounds; they could argue that, after so much time spent living and working here, uprooting the children would cause undue hardship. For many people without status, this is the last resort. In 2008, more than 10,000 applicants were granted permanent residency through this type of claim. An immigration officer considers whether the person or family should be allowed to stay by looking at how long they've been in Canada, how well established they are, how successfully they've integrated into society, and what is in the best interests of the children involved. A decision about their claim could take another three years. Their new lawyer said he would try to stop the deportation while awaiting the decision. He would do it all for \$10,000. They scrambled to find the money—borrowing from friends and from Alberto's savings—and were able to pay in full.

The day before their flight, Alejandra delivered the family's passports to immigration, even though they had no intention of taking the trip. They didn't say anything to their landlord about their situation, hoping that the lawyer would be able to stop the deportation. Alejandra had given her daycare clients and the home child care agency notice that she'd be on vacation and they would have to make other arrangements. Gerardo had rented a storage locker for some of their things—just in case.

On the day of their deportation, the family sat in their living room, praying the rosary. Alejandra tried calling the lawyer a couple of times, but his secretary said he wasn't available. Immigration officials would be expecting them at Pearson at five o'clock. At around three, the phone rang and Alejandra answered. The others watched her worried expression turn to despair as the lawyer told her he wasn't able to stop the deportation. They would have to show up at the airport or a warrant would be issued for their arrest. Alejandra hung up and let loose a deluge of Spanish curses. Gerardo, normally calm, barked to his wife to pack up the kids and their coats and call their close friend Diana, a refugee from Colombia whose girls were in Alejandra's daycare. Alberto, Pablo and Gloria frantically gathered as much as they could—cam-

eras, clothes, model cars. Diana picked Alejandra and the two younger kids up, while Gerardo and Alberto loaded some of their furniture and belongings into the family's minivan and drove it to their storage locker.

"From that moment on," says Alejandra, "we were fugitives, criminals, thieves—that's how we felt."

LAST YEAR, THE AUDITOR GENERAL ANNOUNCED THAT THE Canadian Border Services Agency no longer knew the whereabouts of 41,000 illegal immigrants—people who were supposed to be deported but had fallen off the agency's radar, most of them failed refugee claimants. Warrants were issued, but the immigrants hadn't been caught. Even though Border Services follows initial leads to catch people who go underground, it prioritizes cases of national security and organized crime. Aside from the occasional workplace raids and crackdowns on temp agencies, there's not much active searching for non-status immigrants who aren't considered dangerous.

In the months after going into hiding, Alejandra, Gerardo and Alberto scraped by with money earned from odd jobs. They'd become three of the roughly 100,000 non-status immigrants who work underground in Toronto—an estimate that includes students, temporary workers and visitors who decide not to leave. Many take jobs as security guards, cleaners, servers and parking lot attendants—industries in which employers don't always demand work permits.

Alejandra and Gerardo knew that steady work is key for their humanitarian and compassionate grounds application—having gone into hiding will hurt their case, but it doesn't disqualify them. For their hearing, they will need employment letters, bank account documentation, a copy of their lease and proof that their children are enrolled in school. As non-status immigrants, one of their only paths to legality in Canada is through illegal work. To get status, Alejandra and Gerardo must perfect the art of living underground.

There are tricks to surviving without status. First, community health centres usually have small budgets for uninsured patients, so becoming a patient at a CHC means regular health care. Second, paying income tax can help establish status through a humanitarian and compassionate grounds application, even if the claimant is using an expired social insurance number to file. It's unlikely filing taxes will tip off the government: just because one arm is searching for someone who's gone underground doesn't mean another arm will report that person. Refugee claimants are issued temporary social insurance numbers by Service Canada—with expiry dates that correspond to their work permits issued by Citizenship and Immigration Canada. The Canada Revenue Agency will still accept the number, even after it's expired, and it's not within that agency's mandate to alert immigration officials.

While most non-status immigrants try to avoid paying income tax, working for cash and without a contract, others find more formal methods of arranging secure employment. It's possible to register a business name through Service Ontario without proof of citizenship or landed residency—just pay the standard \$60

The family sold their car, changed their cellphone numbers and avoided most of their friends because immigration officials would be asking about them. They didn't know whom they could trust

fee—and work as a subcontractor without a social insurance number. (After the family was ordered deported, Alejandra registered a business that could provide serving staff for banquet halls.) Some non-status immigrants keep bank accounts and deposit paycheques, knowing it's unlikely they'll be tracked down by the government.

Finding a place to live can be the biggest challenge when you don't have status. For the first five months that they were in hiding, the family lived with their friend Diana, who freed up a room in the three-bedroom apartment she shared with her teenage niece and two young daughters. Alejandra and Gerardo searched for an apartment in north Toronto, but every landlord asked for identification, proof of salary, references and post-dated cheques. They started lying and saying they had only one child, trying unsuccessfully to convince someone to rent them a place. While they lived at Diana's, they slept on second-hand beds: a bunk bed for the kids and a mattress on the floor for the parents. Gloria, then nine years old, eased the family's tension by taking unflattering photos of her dad. "She only takes pictures when I'm sleeping," says Gerardo as his daughter grins mischievously, "or when my hair's a mess."

When other kids across the city went back to school in September 2008, Alberto, Pablo and Gloria stayed home. At first their parents were nervous; they had read about a Costa Rican family who were deported in the summer of 2006 after immigration officials apprehended their children at school. (The following year, the Toronto District School Board adopted a don't ask, don't tell policy, which meant schools would not report non-status students to immigration officials, and officials could not look for students on school grounds.) Finally, weeks after classes had started, Alejandra and Gerardo decided the kids could continue their studies. They found a new school for the younger two. Alberto didn't want to change high schools, so despite the risk he went back to join his puzzled classmates. His grades have suffered. "I don't pay attention. I don't care anymore," Alberto tells me when I ask how school's going. "I'm just trying to pass my courses. But I don't say, 'I'm going to get good grades so that they'll open up doors for me later on, to go to university, and really do something.' Now I'm just trying to finish high school and that's it." All this 17-year-old can see are doors closing. He is also terrified of the police officer who hangs out in the hallways of his school. The officer is there as part of a program to build positive relationships between police and youth and to curb violence in high schools. "He sees me and I try not to go near him," Alberto says. "When I leave the school, there's sometimes a police car outside. I try to go out another way because I think the don't ask, don't tell rule

is only inside—they can still catch you outside the school." Technically, he's right.

Soon after arriving at Diana's, Gerardo got a parking ticket and, fearing he could be tracked down, sold his minivan for \$1,000. The family avoided most of their friends because they thought immigration officials might be asking about them, and they didn't know whom they could trust. They changed their cellphone numbers and, to avoid being traced, often used an Internet line that gave them free outgoing calls with an American number. When Alejandra called her home child care agency and the community centre where she had been employed to run a support group for Latina immigrants, they informed her that immigration officials had been asking about them. Officials had also visited the Canadian Tire where Alberto had been working. Alejandra heard from a former neighbour that officials had been to the apartment, as well. She wonders who among their old neighbours and colleagues would have snitched had they known their whereabouts. There are rumours among refugee claimants and immigrants of financial rewards for outing illegals.

THROUGH THE FALL OF 2008, GERARDO FOUND SOME temporary jobs working for cash in construction and demolition. Alejandra and Alberto found jobs helping out during the back-to-school rush at one of the clothing outlets along Orfus Road, near the Yorkdale Shopping Centre. Alberto unloaded boxes of new merchandise, and Alejandra moved stacks of trendy blue jeans and T-shirts to the front of the store and arranged them on shelves and display tables. They worked nine-hour days along with five or six others. During their half-hour lunch break, they sat at a spare table in the back room and devoured the ham sandwiches Alejandra had made that morning, before going back to folding, arranging, carrying and tidying. For all this, the temp agency responsible for subcontracting the store's workers paid them \$7 an hour—less than minimum wage—and disregarded their lack of work permits. The agency paid the workers by cheque; Alejandra and Alberto cashed theirs at one of the many small stores that take a 2.5 per cent cut for the service.

Near the end of her first week at the clothing outlet, Alejandra had dropped off a pile of folded clothes at the front of the store and was heading to the back room when someone grabbed her arm. "Ale! What are you doing here?" She looked up and recognized a woman who worked at her old community centre.

"Oh, hi," she answered apprehensively, then grabbed her cellphone from her pocket and lifted it to her ear, pretending to get a call. "Just a second," she told the ex-colleague as she darted into the back room and rushed to tell her son, at this point in a panic. She worried that the woman would alert immigration officials but convinced herself to keep working, trying to stay at the back of the store for the rest of the day. She didn't show up to work there again.

Alejandra started volunteering at food banks and community centres in exchange for groceries. After the Sunrise Propane explosion rattled North York in August 2008, she, Gerardo and Alberto took an \$18-an-hour job scouring the neighbourhood in protective gear and masks,

Alejandra and Gerardo went from having regular paycheques to working odd jobs. After the Sunrise Propane explosion, they were hired to scour the neighbourhood for asbestos and debris



looking for asbestos and cleaning up debris. Over Christmas, Alejandra found work for them and a few of their friends, most of them Mexican refugee claimants, as servers at a banquet hall in Vaughan: Alejandra made \$15 an hour and was paid \$12 an hour for each of her staff of four or five, whom she paid \$10 an hour.

The family managed to save some money and were finally able to rent a place of their own in North York. The small house had four bedrooms, more than they needed. And the rent was over \$1,000 a month, well beyond their means. But the landlord never asked for references or papers, so they took it.

ALEJANDRA SERVES TEA AND A HOMEMADE MEXICAN tres leches cake to Gerardo, the boys and me at the family's dining room table. Days after they fled their old apartment, the table was retrieved by a friend. Brightly coloured cloth placemats sit in front of us—red, orange, green and pink.

Now 13 years old, Pablo is slender and has his mother's olive complexion. Wearing a dark T-shirt and loose jeans, he tells me in a quiet voice about his friends from his previous school, some of whom he still chats with on-line. "They hardly know anything about me—why I moved, why I'm not there anymore. I just disappeared." Alejandra hushes him gently and closes the kitchen door to keep his voice from trailing through to the other rooms. She explains with a smile that they're subletting two of their rooms to three other immigrants they met during the Sunrise Propane cleanup. Everyone shares the kitchen and a bathroom. "They don't know about our situation," she whispers to me.

The kids sleep in a small room with a bunk bed, a twin bed and a mound of clothes and school bags on the floor. Their parents are next door, finally in their own room. The living room is tidy, with weathered curtains that are too big for the window, a donated

couch and chairs, and the family's big-screen TV, which, like the dining room table, was salvaged from their previous life.

A week and a half later, I call Alejandra, but a recording tells me that the customer is unavailable. I keep trying for a few days and finally drop by their place on a Tuesday evening. Gerardo greets me warmly and invites me to a bible study and prayer session they're hosting. He jokes that their cellphone had been cut off because they had "overpaid" the bill again—in other words, they hadn't paid it. They've got another phone, though, which they buy cards for. Alejandra is in the kitchen washing some mugs for the guests who start appearing. We sit around the dining room table, drinking tea, munching on imitation Oreos and talking about God.

After the meeting, I sit in the kitchen as Alejandra cleans the rest of the dishes. "These are all from the weekend," she says. Alejandra, Gerardo and Alberto had been busy working at the Pride festival, hired by private contractors to clean the streets because garbage collectors were off the job due to the municipal strike. They worked until the early hours of the morning three days in a row for \$10 an hour, on strict instructions to tell anyone who asked that they were volunteering. She laughs, visibly delighted that they had finally earned some cash—around \$900.

When we realize it's getting late, Alejandra and Gerardo walk me to the bus stop, sharing a cigarette. They keep balancing debts and odd jobs, struggling to master the delicate art of living underground—working illegally in the hope of one day becoming legal again. They can't predict when their humanitarian and compassionate case will be heard.

"For eight years," Gerardo says, "we had dreams but we couldn't build a future. And now, we're worse off. It's not only, 'What are we going to do tomorrow?' but, 'What's going to happen to us tomorrow?'"

END